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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/300,042	04/27/1999	GREGORY B. THAGARD	3054/8	4009

22440 7590 11/30/2007
GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

EXAMINER

BODDIE, WILLIAM

ART UNIT	PAPER NUMBER
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2629

MAIL DATE	DELIVERY MODE
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11/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/300,042

Applicant(s)

THAGARD ET AL.

Examiner

William L. Boddie

Art Unit

2629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

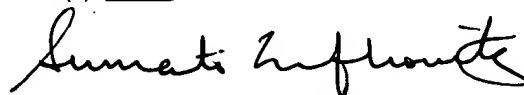
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 66.
Claim(s) rejected: 62, 66 and 68-72.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



**SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER**

Continuation of 3. NOTE: New claims 73-89 have been added with no previous claims being cancelled.

Continuation of 11. does NOT place the application in condition for allowance because: the Applicants' arguments are not persuasive. On page 7 of the remarks, the Applicants argue that finality was not proper in the previous office action. The Applicants contend that the same key feature has been present throughout the amendments and with the application of new art in the previous office action the Applicants should be given chance to respond to the rejection.

The Examiner respectfully disagrees. While the same key feature might have been present throughout all of the amendments, the limitations added to the sole independent claim immediately prior to the final office action had never before been presented by the Applicants. Specifically, the limitation requiring a sensor mounted on a clothing article... was previously presented by the Applicants. In other words, new limitations were introduced in the prior amendment. As shown in section 706.07(a) of the MPEP, a final rejection is proper when the Applicants' amendments necessitated a new grounds of rejection. As shown above, the newly added limitations necessitated a new grounds of rejection, as such the final rejection was proper.

Applicants also traversed the rejection on the merits. Applicants specifically argue that Samuel does not disclose a flexible display. Applicants also state that, "the Examiner has recognized, the reference [Samuel] fails to disclose a light emitting device that has is pliable like a fabric."

First the Examiner must deny that any such recognition has been acquired or disclosed by the Examiner. Much to the contrary, the Examiner still firmly believes that Samuel does indeed disclose a flexible display device.

The Examiner must also respectfully disagree with the Applicants contention that Samuel does not disclose a flexible display. Samuel, expressly states that the display can not only be using on clothing (col. 6, line 60), but that the display is in fact, flexible (col. 6, line 46). As such Samuel is seen as sufficiently disclosing the broad limitation requiring that the light-emitting polymer display exhibit fabric-like characteristics.

Finally the Applicants argue that Lebensfeld and Samuel are not analogous art. The Examiner must again disagree. Lebensfeld and Samuel are analogous art because they are both concerned with the application of flexible displays on clothing. Therefore, Lebensfeld and Samuel are analogous art.

As shown above the rejections are seen as proper and are thus maintained..